

MONTANA LEGISLATIVE HISTORY

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Chapter 111 19 95

Bill H 205 S _____ Original bill & history C

H. Committee on State Administration

Hearing Date(s) Jan 20 ☒ C

Jan 24 ☒ C

_____ C

_____ C

Date Out Jan 24 ☒ C

S. Committee on State Administration

Hearing Date(s) Feb 06 ☒ C

_____ C

_____ C

_____ C

Feb 06 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HB 203 INTRODUCED BY MCKEE, ET AL.
 ELIMINATE REQUIREMENT THAT AN APPLICANT FOR A CERTIFICATE TO
 PROVIDE LIMOUSINE SERVICE MAKE A SHOWING OF PUBLIC NEED

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO BUSINESS & LABOR		
1/20	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED		
2/01	2ND READING DO PASS AS AMENDED MOTION		
	FAILED	45	52

HB 204 INTRODUCED BY TROPILA, ET AL.
 REQUIRE DEPARTMENT OF JUSTICE TO SPECIALLY MARK A CERTIFICATE
 OF OWNERSHIP FOR A SALVAGE VEHICLE

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/16	FISCAL NOTE REQUESTED		
1/21	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/23	HEARING		
1/27	COMMITTEE REPORT—BILL PASSED AS AMENDED	86	8
1/28	2ND READING PASSED	90	10
1/30	3RD READING PASSED		
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/02	HEARING		
3/04	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	48	0
3/09	3RD READING CONCURRED	44	3
	RETURNED TO HOUSE		
3/11	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/17	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 188		
	EFFECTIVE DATE: 10/01/95		

HB 205 INTRODUCED BY J. JOHNSON, ET AL.
 GENERALLY REVISE TEACHERS' RETIREMENT LAWS
 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO STATE ADMINISTRATION		
1/16	FISCAL NOTE REQUESTED		
1/20	HEARING		
1/20	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/24	COMMITTEE REPORT—BILL PASSED		
1/26	2ND READING PASSED	86	11
1/27	3RD READING PASSED	86	10
	TRANSMITTED TO SENATE		
1/28	FIRST READING		
1/28	REFERRED TO STATE ADMINISTRATION		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED		

3/02	2ND READING CONCURRED	49	0
3/03	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 111		
	EFFECTIVE DATE: 03/10/95—SECTIONS 1-3, 5-7, 9-13		
	EFFECTIVE DATE: 07/01/95—SECTIONS 4 & 8		

HB 206 INTRODUCED BY J. JOHNSON, ET AL.

AUTHORIZE TRUSTEES OF A SCHOOL DISTRICT TO IMPOSE A PERMISSIVE
LEVY TO PAY THE ALLOWABLE COSTS OF A DAY TREATMENT
PROGRAM FOR SEVERELY EMOTIONALLY DISTURBED CHILDREN

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO TAXATION		
1/16	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE PRINTED		
1/25	HEARING		
2/01	TABLED IN COMMITTEE		
3/29	MISSSED TRANSMITTAL DEADLINE FOR 71ST DAY		
	DIED IN COMMITTEE		

HB 207 INTRODUCED BY BARNETT, ET AL.

PROHIBIT MERGER OF A STATE-CHARTERED BANK OR NATIONAL BANK
WITH ITS MAIN OFFICE IN THIS STATE AND AN OUT-OF-STATE BANK

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO BUSINESS & LABOR		
1/20	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED		
1/28	2ND READING PASSED AS AMENDED	94	1
1/30	3RD READING PASSED	98	1
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO BUSINESS & INDUSTRY		
2/06	HEARING		
3/01	TABLED IN COMMITTEE		
3/15	TAKEN FROM COMMITTEE AND		
	PLACED ON 2ND READING	28	22
3/16	2ND READING CONCURRED	26	24
3/17	3RD READING FAILED	24	26

HB 208 INTRODUCED BY COBB

IMPLEMENT THE PUBLIC'S CONSTITUTIONAL RIGHT TO KNOW BY
PROVIDING FOR PUBLIC ACCESS TO INFORMATION RELATING TO CIVIL
AND CRIMINAL SANCTIONS IMPOSED FOR GAMBLING LAW VIOLATIONS

1/14	INTRODUCED		
1/14	FIRST READING		
1/14	REFERRED TO JUDICIARY		
1/25	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED		
1/28	2ND READING PASSED	96	1
1/30	3RD READING PASSED	96	1

Fiscal Note for HB0205, as introducedDESCRIPTION OF PROPOSED LEGISLATION:

an act generally revising the laws relating to the Teachers' Retirement System; clarifying compensation that may be used in the calculation of retirement benefits; clarifying the definition of average final compensation and earned compensation; clarifying quorum requirements for the teachers' retirement board; clarifying that elected county superintendents are prohibited from becoming active members of the public employees' retirement system but may elect membership under the teachers' retirement system; clarifying the limits on earnings of members on disability retirement; limiting compensation as required under the internal revenue code; authorizing transfer of retirement contributions; eliminating the requirement to offer a tax-deferred annuity program; clarifying application of family law orders to the teachers' retirement system.

ASSUMPTIONS:

HB0205 clarifies certain benefit provisions of the Teachers' Retirement System and does not enhance benefits. Therefore, there is no actuarial cost and no fiscal impact.

FISCAL IMPACT:

None

Dave Lewis 1-19-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Johnson
JOHN JOHNSON, PRIMARY SPONSOR DATE
Fiscal Note for HB0205, as introduced

HB 205

HEARING ON HB 205Opening Statement by Sponsor:

REP. JOHN JOHNSON, HD 2, stated the intention this bill is to clarify requirements in the Teachers' Retirement Act. This is a general housekeeping amendment to clarify those revisions that comply with the requirements in the Internal Revenue Code. He stated in 1993 the legislature adopted provisions for providing retirement benefits in case of divorce. This process is called family law order. There was an oversight in the coordination and construction of the bill where the final language was not codified under the Teachers' Retirement System. Since the legislature intended family law order be applied to the Teachers' Retirement System, these amendments are needed to clarify that to the Teachers' Retirement Board.

Over the past fifteen years, the definition of compensation that may be included in the calculation of retirement benefits has been amended many times. It continues to limit a member's ability to inflate their final year's salary. As a result REP. JOHNSON feels it is necessary to clarify the compensation and correct the ten percent cap on compensation. Some people have questioned if compensation is important to the Teachers' Retirement System. There is a section in this bill that includes a clarification to what is meant by earned compensation. He stated there are several other housekeeping proposals and amendments that are required to comply with the federal laws and regulations.

Proponents' Testimony:

Tom Biladeau, Research Director, Montana Education Association, stated he supported some of the changes that are referenced in this bill when they first came into law five years ago. He stated this is a fair way to treat employees and expeditiously handle the administrative tasks that are covered by the Teachers' Retirement System. He stated this bill cleans up and clarifies the system's law so they understand what it entitles. He believes this is a good bill that will help others understand how the Teachers' Retirement System works. He asked the committee to give this bill a do pass.

Norm Frasier, School Administrators of Montana, stated they too supported the bill in 1989 when it became law. He said there were a lot of questions, however. He stated this bill helps clarify some of those questions. He said he is satisfied things in this bill will help clarify the questions asked of him.

John Malee, Montana Federation of Teachers, stated they were in support of this bill.

Don Waldron, Montana Rural Education Association, stated they support this bill. He said the only question they had about the

bill is on page seven about the county superintendents. He stated that issue has been addressed with this bill.

Opponents' Testimony: none

Informational Testimony:

David Senn, Executive Director, Teachers' Retirement System, provided written testimony. EXHIBIT 1

{Tape: 1; Side: A; Approx. Counter: 748; Comments: Because of background noise REP. SMITH'S questions were inaudible.}

Questions From Committee Members and Responses:

REP. SMITH asked if this money is over what the person would ordinarily pay.

Mr. Senn stated ordinary contributions for an employee are 7.044% and for the employer are 7.47%. He stated this is contributed on the gross salaries he showed in the first column. Contributions below are in addition to what has already been contributed to funds.

REP. SMITH asked if the employee chooses to have their retirement based on the higher figure would their employer be required to match it.

Mr. Senn stated she was correct.

CHAIRMAN SIMPKINS stated that this is current law and this bill won't change that law.

REP. STOVALL asked Mr. Senn to explain what he meant by stating the committee's recommendations do not constitute formal legislative action.

CHAIRMAN SIMPKINS stated that Sheri Heffelfinger would be the best one to answer that question. He also reminded the committee that they were talking about the interim retirement committee.

Sheri Heffelfinger stated the committee on Public Employee Retirement Systems is a statutory committee that the legislature created in 1993 to review retirement proposals prior to the introduction in the legislature. They were asked to provide a recommendation on how the legislature should vote on the proposal. This is the purpose of the report. It is not formal legislative action. They did take a vote of members to say what they would recommend the legislature do.

CHAIRMAN SIMPKINS stated it was the committee's report to the legislature and their recommendation on a particular piece of legislation that was in question.

REP. LILA TAYLOR asked if these people who served on the committee gave this report.

CHAIRMAN SIMPKINS stated that was correct.

REP. SQUIRES asked, in regard to what REP. SMITH had been talking about and the discussion about this being the employee's decision, if the retirement package was negotiated in regard to contracts and contributions.

Mr. Senn stated part of the incentives an individual receives are part of what is bargained.

REP. SQUIRES stated this would be the employee's option but there are certain other things that are left to the decision making process. She believed that institutions are aware of what is happening.

REP. DENNY asked if there are any counties that do not elect their superintendent.

Mr. Senn stated there are counties where there is city/county consolidation. He stated these people are typically appointed and if they need a certain person who is certified to perform a certain function of county superintendent, they can contract those services with someone else.

Closing by Sponsor:

REP. JOHNSON closed by stating this is a clarifying bill. It clarifies many issues that have accumulated in the past few years. It adds no money to the general fund. This bill will not take any money away from anyone.

Discussion:

REP. GALVIN stated he didn't believe the committee understood what an interim committee is and what the purpose is. He felt this should be explained to the committee.

CHAIRMAN SIMPKINS stated an interim committee was established because annually there are anywhere from twenty to forty bills that deal with the retirement systems that are managed by the state. Each retirement system has a board, however it is all established by law. There are variables in the retirement system depending upon the activity involved. In order to avoid the leap-frogging, the interim retirement board processed the bills first. At the time of the meeting the committee makes recommendations to either pass or not pass. There were problems with the retirement committee because not all the data was available and not all of the legislation was on time. They sought consolidation of groups and agreements prior to coming before the committee. The only thing he found questionable in this particular legislation was the housing. The housing given

to a teacher is not counted as part of the earnings because the school system can't deduct this because of a technicality to keep it out of the complicated federal system. Technically, a teacher would receive a salary and pay for their own housing. He thought this seemed reasonable to include in the retirement. Due to the complexity of the federal regulations it was decided not to alter the system. If interim committees are established by law and appropriate funding is provided in that law the committee is formed without the vote of the members. Those that come in through resolution and without funding will be voted on by the members. He stated that the committee could take time to study the interim committee and postpone executive action on this bill.

EXECUTIVE ACTION ON HB 106

Motion: REP. GAY ANN MASOLO MOVED THAT HB 106 DO PASS.

Discussion:

REP. TROPILA asked if something had been found out about the window of opportunity.

Sheri Heffelfinger stated she was able to talk to David Senn and the drafter of the bill, but Greg Groepper could not be reached. She stated it was her understanding the one-year window is there because the university system, under the law that was passed last year, developed their own program allowed by the statute they provided for that window.

CHAIRMAN SIMPKINS stated Tom Schneider had talked to him and had mentioned the main reason for the window of opportunity is because of teachers' contracts versus state employees.

{Tape: 1; Side: B;.}

REP. REHBEIN asked if there would be any fiscal impact to the teachers' retirement system.

CHAIRMAN SIMPKINS stated there would be no fiscal impact to the teachers' retirement system. He stated there might be some work impact. This is the way it was done before at no cost to the state and no cost to the retirement system. He stated there was money deposited into the retirement system which was saved from each department.

REP. SQUIRES stated the departments made that decision for everyone and everyone else got the option and these people were accidentally excluded from this option. They need to be brought into the option.

Vote: The motion carried unanimously with REP. MATT BRAINARD voting yes by proxy.

HOUSE OF REPRESENTATIVES

State Administration

ROLL CALL

DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Simpkin, Chairman	✓		
Rep. Matt Denny, Vice Chairman, Majority	✓		
Rep. Dore Schwinden, Vice Chair, Minority	✓		
Rep. Matt Brainard			✓
Rep. Pat Galvin	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Sam Kitzenberg	✓		
Rep. Bonnie Martinez	✓		
Rep. Gay Ann Masólo	✓		
Rep. Bill Rehbein	✓		
Rep. Susan Smith	✓		
Rep. Jay Stovall	✓		
Rep. Carolyn Squires	✓		
Rep. Lila Taylor	✓		
Rep. Joe Tropila	✓		



Committee on Public Employee Retirement Systems

53rd Montana Legislature

Room 138 State Capitol
Helena, MT 59620-1708
(406) 444-3064
FAX (406) 444-3036

SENATE MEMBERS
DON BIANCHI
CHAIRMAN
THOMAS A. BECK
VICE CHAIRMAN
JOHN R. HERTEL
BOB HOCKETT

HOUSE MEMBERS
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MARJORIE I. FISHER
PATRICK G. GALVIN
RICHARD D. SIMPKINS

COMMITTEE STAFF
SHERI HEFFELFINGER
RESEARCHER
DAVID NISS
ATTORNEY

HB 205 REPORT ON LC 529

Purpose of Report

The Committee on Public Employee Retirement Systems (CPERS) is required by law (Ch. 549, L. 1993) to report to the Legislature on the fiscal and policy implications of each retirement proposal it reviews and to make recommendations for Legislative action. The Committee's recommendations do not constitute formal Legislative action on a bill and the Committee may not prevent a retirement bill from being introduced. This report applies to the proposal as presented to CPERS, not to any changes made subsequent to the adoption of this report. This report is informational and its purpose is to promote fair and consistent retirement policy for Montana's public employees.

Proposal Summary

This proposal affects only the Teachers' Retirement System (TRS) and was initially presented in two parts, Proposal #4 and Proposal #5, which were later combined. Three additional provisions were subsequently added to the proposal.

Proposal #4 included:

- clarification of the 10% cap whereby the compensation reported in one year of a member's average final compensation cannot exceed the previous year's compensation by more than 10%;
- clarification of "earned compensation" and elimination of the value of school housing as part of a teacher's earned compensation;
- clarification that the TRS Board may require a disability allowance recipient to submit an earnings statement and other earnings documentation and that the allowance can be reduced when earnings exceed the allowed amount;
- additional statutory language to comply with an IRS requirement limiting the amount of compensation that may be reported to the retirement system; and

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DATE 1-20-95
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- the elimination of the TRS tax-deferred annuity program, which TRS has been contracting out since 1989.

Proposal #5 provided that elected county superintendents who are elected after July 1, 1995, may elect to be members of TRS, but not PERS.

Three additional changes were made. These changes were to:

- provide that a member with contributions in another qualified retirement plan may transfer their accumulated contributions to TRS in order to purchase additional service in TRS that a member is eligible to qualify;
- define that a "quorum" of members on the TRS Board is three; and
- codify family law orders under the Teachers' Retirement Act.

The original proposal was presented to the CPERS on December 1, 1994, at the request of the Teachers' Retirement Board. The recommendations summarized below were adopted on December 2, 1994.

Issue Summary

Dave Senn, executive secretary of the Teachers' Retirement Board, provided testimony that the proposal does not substantively change benefits. The changes are to assist in the system's administration.

Policy Considerations

CPERS members discussed the issue that teachers who receive school housing would be losing a benefit if the value of the housing is not included as earned compensation because, in effect, the change reduces the amount of compensation that may be used in calculating a member's retirement benefit. Mr. Senn explained that reporting the value of housing increases the amount that districts have to pay into the retirement system, which is why most districts do not report the housing anyway. Since the value of housing cannot be deducted from the employer payroll or as a percentage of the member's salary, Mr. Senn testified that it is better that the value of housing be taken out of the retirement system. Mr. Senn reported that there are very few district who actually provide housing.

Fiscal Considerations

The proposal does not require additional funding.

Effects on Other Systems

Elected County Superintendents would no longer be able to elect membership under PERS. However, no current members of PERS are affected.

Committee Recommendations

Amendments: None.

Recommended Action:

DO PASS on Proposal #4 (adopted with two "No" votes)

DO PASS on Proposal #5 (adopted unanimously)

The three additional provisions were not considered by the CPERS and the CPERS makes no recommendations on these portions of the bill.

Note: This report was prepared by Sheri Heffelfinger, Researcher, Montana Legislative Council based on the minutes of the December 1-2, 1994, and December 29, 1994, CPERS meetings.

TESTIMONY
HOUSE BILL 205
TEACHERS' RETIREMENT SYSTEM
PRESENTED BY DAVID L. SENN
JANUARY 20, 1995

Purpose

General house keeping amendments to clarify provisions of the TRS act and to comply with requirements of the Internal Revenue Code. This act will not create any new benefit features or unfunded liabilities. There is no administrative or actuarial fiscal impact.

Background

There are eleven sections in this bill clarifying different provisions of the Teachers' Retirement System. The following is a brief history of the major provisions of this act.

The 1993 legislature adopted provisions for dividing retirement benefits in case of divorce. This process is called a Family Law Order (FLO). This legislation was introduced at the request of the Teachers' and Public Employees' Retirement Boards. However, due to an oversight in a coordination instruction contained in the bill the final language was not codified under the Teachers' Retirement System, Title 19, Chapter 20. Since the legislature intended that family law orders apply to TRS, these amendments are necessary to clarify that the TRS board can approve a FLO.

Over the past 15 years the legislature has amended the definition of compensation that may be included in the calculation of retirement benefits many times in a continuing effort to limit members ability to inflate their final year's salaries. Inflated salaries result in larger but under funded retirement benefits.

The legislature has rewritten the definition of earned compensation, required that members and their employers pay the actuarial cost if termination pay is used to increase compensation, and limited increases in compensation from year to year to no more than ten percent of the preceding year.

Also, the continuing changes in the definition of taxable income has caused members and school clerks to question what compensation is reportable to TRS. Therefore, this legislation includes a clarification of what is meant by earned compensation.

EXHIBIT 2
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HB 205

Included in this legislation are several house keeping proposals, and amendments that are required to comply with and/or to take advantage of federal laws and regulations. i.e. defining a quorum, clarifying membership for county superintendents, limiting compensation as required under the IRS code, authorizing transfers or rollovers as allow by the IRS, and repealing the requirement that the board offer a tax-deferred annuity program.

Section By Section Description

Section 1. 19-2-907 Alternate payees -- family law orders. This amendment will remove the reference to TRS (chapter 20) from the Public Employees' Retirement statutes covering family law orders. Section 9 will enact family law orders under the Teachers' Retirement System. Without these amendments family law orders may not be approved by the Teachers' Retirement Board.

Section 2. 19-20-101 (5)(b) average final compensation. This is a clarification the calculation of the 10% cap and is not intended to change the current calculation made by the System. The cap is calculated as a rolling cap whereby each year used in the calculation of average final compensation cannot exceed the previous year's compensation by more than 10%. However, members have the option to use earnings in excess of the 10% cap if they and their employer contribute the actuarial cost to fund the increased benefits.

When the cap was adopted the statement of intent said; "It is the intent of the legislature to provide equitable retirement benefits to all members of the Teachers' Retirement System based on their normal service and salary. The legislature further intends to limit the effect on the retirement system of isolated salary increases received by selected individuals through promotions or one-time salary enhancements during their final years of employment."

The Teachers' Retirement Board was directed to adopt administrative rules to allow for exemption to the cap. Under the administrative rules adopted by the Board, increases that result from collective bargaining or increases granted to all similarly situated employees, summer employment, retirees returning to employment, or a change in employers, are exempt from the cap.

Following are two examples of the 10% cap used in the calculation of retirement benefits.

LAST 5 YEARS	SALARIES	EXEMPT EARNINGS	EARNINGS CAP	10% CAP	
1	60,447	NA			
2	57,729	NA			
3	95,513	22,522	63,501	9,490	
4	103,643	29,861	69,851	3,931	BENEFIT W/O CAP \$3,883.60
5	100,434	7,221	76,837	16,376	BENEFIT W CAP \$3,497.32
TOTAL				29,797	DIFFERENCE \$ 386.28

In the above example if the member wished to use earnings in excess of the 10% cap, the actuarial cost would be; employee \$18,008 and employer \$18,966.

LAST 5 YEARS	SALARIES	EXEMPT EARNINGS	CAPPED EARNINGS	10% CAP	
1	38,095	NA			
2	45,706	NA			
3	68,256	0	50,277	17,979	
4	68,761	0	55,304	13,457	BENEFIT W/O CAP \$2,759.03
5	65,000	0	60,835	4,165	BENEFIT W CAP \$2,272.81
TOTAL				35,601	DIFFERENCE \$ 486.22

In the above example if the member wished to use earnings in excess of the 10% cap, the actuarial cost would be; employee \$26,794 and employer \$28,322.

Section 2. 19-20-101 (8) Earned compensation. This amendment clarifies that the member's gross compensation, before any tax-deferred deductions, is reportable to TRS. The "value of housing" which is included in the current definition has been dropped because it is simply not possible to verify if housing is reported when a member is provided a house or what value should be reported.

However, legal counsel has advised us that members with housing currently reported would have a contractual right to that benefit requiring that the value continue to be reported.

We also find that many employers are not aware that housing should be reported, or report housing only in the final three years, and we fear that if we actively pursued it's reporting we could increase the retirement costs for many small school districts.

Section 3. 19-20-203 Officers and employees of retirement board. A quorum of the Teachers' Retirement Board is not defined under the Teachers' Retirement Act. The board is made up of six members appointed by the governor, one of which must be the Superintendent of Public Instruction. This amendment will define a quorum as three members.

Section 4. 19-20-302 Active membership. This amendment is necessary because current law leaves open many questions regarding retirement system membership for elected county superintendents. When the Teachers' Retirement System was enacted in 1937, county superintendents were required to become members. However, in 1971 the definition of a teacher under the School Laws of Montana was amended and "county superintendent" was deleted from the definition.

Currently we find county superintendents under PERS, TRS or neither retirement system. This proposal will give county superintendents elected to office after July 1, 1995, the option to elect membership under TRS, but not PERS. The current retirement status of county superintendents elected to office before July 1, 1995, will remain unchanged. Therefore, this section must be effective July 1, 1995.

Section 5. 19-20-602 Annuity savings fund -- member's contribution. Amendment to clean up reference to earned compensation and average final compensation as amended in Section 2.

Section 6. 19-20-706 Exemption from taxation and legal process. Amendment necessary to strike the reference to the public employees' retirement statutes, 19-2-902 regarding family law orders. Section 9 will enact family law orders under TRS.

Section 7. 19-20-904 Adjustment of allowance. Current law refers to adjusting the disability recipient's "pension" and "annuity" if a recipient has compensation in excess of the amount they are allowed to earn. As benefits are calculated today these terms mean retirement allowance. This amendment is necessary to clarify how the members benefit will be adjusted if they receive compensation in excess of the amount they are allowed to earn.

Disability retirement benefits are reduced if the member's earnings plus the member's disability benefit exceed their average final compensation. For example a member receiving a disability benefit of \$5,000 and an average final compensation of \$20,000 would be eligible to earn up to \$15,000 without loss of benefits.

This proposal will also grant the board discretion to require an annual earnings statements. Currently members receiving a disability allowance must annually submit an earnings statement even if it is obvious that they can no longer be gainfully employed. Failure to submit an earnings statement could result in the cancellation of retirement benefits. Members who obviously cannot be gainfully employed should not be required to continue to submit an annual statement.

Section 8. COMPENSATION LIMIT - (IRS REQUIREMENT). Federal law Section 401(a)(17), limits the amount of compensation that may be reported to the retirement system and thus used in the calculation of retirement benefits. For 1995 this limit is \$150,000.00 and will be adjusted for inflation in the future. Currently no member of TRS is in danger of exceeding this limit.

All retirement plans are required to include Section 401(a)(17) of the Internal Revenue Code in their plan document. This amendment was prepared by the system's actuary to be in compliance with the Code and will grandfather members of TRS prior to July 1, 1995, to no compensation limits. To comply with the federal regulations, this Section must be effective July 1, 1995.

If this provision is not enacted this year the TRS could lose it's IRS qualified status. If a plan loses it's qualified status, the investment earnings of the plan will be subject to taxation and accrued benefits will be taxable to the members.

Section 9. ALTERNATE PAYEE -- FAMILY LAW ORDERS. This amendment was prepared by the legislative council so that the Family Law Orders could be codified under the Teachers' Retirement Act.

Section 10. ROLLOVER OR TRANSFER OF PUBLIC EMPLOYEE ACCUMULATED CONTRIBUTIONS. This amendment will allow members who are eligible to purchase additional service to rollover contributions from another qualified public retirement plan into the Teachers' Retirement System. Members will then be able to retain the tax-deferred status on contributions and continue to apply these dollars to their future retirement.

Section 11. REPEAL 19-20-207. The section 19-20-207, MCA., requires that the Board establish a Tax-Deferred Annuity program. When enacted, the TRS was about the only option available to members wishing to use a tax-deferred annuity to supplement their retirement income. In 1989 the Board recognized that these programs had become a thriving private sector industry in which we were in direct competition. Therefore, the Board, through a Request For Proposal contracted with the Variable Annuity Life Insurance Company to take over our annuity accounts. In this legislative session the board is asking the legislature to repeal 19-20-207, MCA.

TESTIMONY
HOUSE BILL 205
TEACHERS' RETIREMENT SYSTEM
PRESENTED BY DAVID L. SENN
JANUARY 20, 1995

Purpose

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Background

There are eleven sections in this bill clarifying different provisions of the Teachers' Retirement System. The following is a brief history of the major provisions of this act.

The 1993 legislature adopted provisions for dividing retirement benefits in case of divorce. This process is called a Family Law Order (FLO). This legislation was introduced at the request of the Teachers' and Public Employees' Retirement Boards. However, due to an oversight in a coordination instruction contained in the bill the final language was not codified under the Teachers' Retirement System, Title 19, Chapter 20. Since the legislature intended that family law orders apply to TRS, these amendments are necessary to clarify that the TRS board can approve a FLO.

Over the past 15 years the legislature has amended the definition of compensation that may be included in the calculation of retirement benefits many times in a continuing effort to limit members ability to inflate their final year's salaries. Inflated salaries result in larger but under funded retirement benefits.

The legislature has rewritten the definition of earned compensation, required that members and their employers pay the actuarial cost if termination pay is used to increase compensation, and limited increases in compensation from year to year to no more than ten percent of the preceding year.

Also, the continuing changes in the definition of taxable income has caused members and school clerks to question what compensation is reportable to TRS. Therefore, this legislation includes a clarification of what is meant by earned compensation.

Included in this legislation are several house keeping proposals, and amendments that are required to comply with and/or to take advantage of federal laws and regulations. i.e. defining a quorum, clarifying membership for county superintendents, limiting compensation as required under the IRS code, authorizing transfers or rollovers as allow by the IRS, and repealing the requirement that the board offer a tax-deferred annuity program.

Section By Section Description

Section 1. 19-2-907 Alternate payees -- family law orders. This amendment will remove the reference to TRS (chapter 20) from the Public Employees' Retirement statutes covering family law orders. Section 9 will enact family law orders under the Teachers' Retirement System. Without these amendments family law orders may not be approved by the Teachers' Retirement Board.

Section 2. 19-20-101 (5)(b) average final compensation. This is a clarification the calculation of the 10% cap and is not intended to change the current calculation made by the System. The cap is calculated as a rolling cap whereby each year used in the calculation of average final compensation cannot exceed the previous year's compensation by more than 10%. However, members have the option to use earnings in excess of the 10% cap if they and their employer contribute the actuarial cost to fund the increased benefits.

When the cap was adopted the statement of intent said; "It is the intent of the legislature to provide equitable retirement benefits to all members of the Teachers' Retirement System based on their normal service and salary. The legislature further intends to limit the effect on the retirement system of isolated salary increases received by selected individuals through promotions or one-time salary enhancements during their final years of employment."

The Teachers' Retirement Board was directed to adopt administrative rules to allow for exemption to the cap. Under the administrative rules adopted by the Board, increases that result from collective bargaining or increases granted to all similarly situated employees, summer employment, retirees returning to employment, or a change in employers, are exempt from the cap.

Following are two examples of the 10% cap used in the calculation of retirement benefits.

LAST 5 YEARS	SALARIES	EXEMPT EARNINGS	EARNINGS CAP	10% CAP	
1	60,447	NA			
2	57,729	NA			
3	95,513	22,522	63,501	9,490	
4	103,643	29,861	69,851	3,931	BENEFIT W/O CAP \$3,883.60
5	100,434	7,221	76,837	16,376	BENEFIT W CAP \$3,497.32
TOTAL				29,797	DIFFERENCE \$ 386.28

In the above example if the member wished to use earnings in excess of the 10% cap, the actuarial cost would be; employee \$18,008 and employer \$18,966.

LAST 5 YEARS	SALARIES	EXEMPT EARNINGS	CAPPED EARNINGS	10% CAP	
1	38,095	NA			
2	45,706	NA			
3	68,256	0	50,277	17,979	
4	68,761	0	55,304	13,457	BENEFIT W/O CAP \$2,759.03
5	65,000	0	60,835	4,165	BENEFIT W CAP \$2,272.81
TOTAL				35,601	DIFFERENCE \$ 486.22

In the above example if the member wished to use earnings in excess of the 10% cap, the actuarial cost would be; employee \$26,794 and employer \$28,322.

Section 2. 19-20-101 (8) Earned compensation. This amendment clarifies that the member's gross compensation, before any tax-deferred deductions, is reportable to TRS. The "value of housing" which is included in the current definition has been dropped because it is simply not possible to verify if housing is reported when a member is provided a house or what value should be reported.

However, legal counsel has advised us that members with housing currently reported would have a contractual right to that benefit requiring that the value continue to be reported.

We also find that many employers are not aware that housing should be reported, or report housing only in the final three years, and we fear that if we actively pursued it's reporting we could increase the retirement costs for many small school districts.

Section 3. 19-20-203 Officers and employees of retirement board. A quorum of the Teachers' Retirement Board is not defined under the Teachers' Retirement Act. The board is made up of six members appointed by the governor, one of which must be the Superintendent of Public Instruction. This amendment will define a quorum as three members.

Section 4. 19-20-302 Active membership. This amendment is necessary because current law leaves open many questions regarding retirement system membership for elected county superintendents. When the Teachers' Retirement System was enacted in 1937, county superintendents were required to become members. However, in 1971 the definition of a teacher under the School Laws of Montana was amended and "county superintendent" was deleted from the definition.

Currently we find county superintendents under PERS, TRS or neither retirement system. This proposal will give county superintendents elected to office after July 1, 1995, the option to elect membership under TRS, but not PERS. The current retirement status of county superintendents elected to office before July 1, 1995, will remain unchanged. Therefore, this section must be effective July 1, 1995.

Section 5. 19-20-602 Annuity savings fund -- member's contribution. Amendment to clean up reference to earned compensation and average final compensation as amended in Section 2.

Section 6. 19-20-706 Exemption from taxation and legal process. Amendment necessary to strike the reference to the public employees' retirement statutes, 19-2-902 regarding family law orders. Section 9 will enact family law orders under TRS.

Section 7. 19-20-904 Adjustment of allowance. Current law refers to adjusting the disability recipient's "pension" and "annuity" if a recipient has compensation in excess of the amount they are allowed to earn. As benefits are calculated today these terms mean retirement allowance. This amendment is necessary to clarify how the members benefit will be adjusted if they receive compensation in excess of the amount they are allowed to earn.

Disability retirement benefits are reduced if the member's earnings plus the member's disability benefit exceed their average final compensation. For example a member receiving a disability benefit of \$5,000 and an average final compensation of \$20,000 would be eligible to earn up to \$15,000 without loss of benefits.

This proposal will also grant the board discretion to require an annual earnings statements. Currently members receiving a disability allowance must annually submit an earnings statement even if it is obvious that they can no longer be gainfully employed. Failure to submit an earnings statement could result in the cancellation of retirement benefits. Members who obviously cannot be gainfully employed should not be required to continue to submit an annual statement.

Section 8. COMPENSATION LIMIT - (IRS REQUIREMENT). Federal law Section 401(a)(17), limits the amount of compensation that may be reported to the retirement system and thus used in the calculation of retirement benefits. For 1995 this limit is \$150,000.00 and will be adjusted for inflation in the future. Currently no member of TRS is in danger of exceeding this limit.

All retirement plans are required to include Section 401(a)(17) of the Internal Revenue Code in their plan document. This amendment was prepared by the system's actuary to be in compliance with the Code and will grandfather members of TRS prior to July 1, 1995, to no compensation limits. To comply with the federal regulations, this Section must be effective July 1, 1995.

If this provision is not enacted this year the TRS could lose it's IRS qualified status. If a plan loses it's qualified status, the investment earnings of the plan will be subject to taxation and accrued benefits will be taxable to the members.

Section 9. ALTERNATE PAYEE -- FAMILY LAW ORDERS. This amendment was prepared by the legislative council so that the Family Law Orders could be codified under the Teachers' Retirement Act.

Section 10. ROLLOVER OR TRANSFER OF PUBLIC EMPLOYEE ACCUMULATED CONTRIBUTIONS. This amendment will allow members who are eligible to purchase additional service to rollover contributions from another qualified public retirement plan into the Teachers' Retirement System. Members will then be able to retain the tax-deferred status on contributions and continue to apply these dollars to their future retirement.

Section 11. REPEAL 19-20-207. The section 19-20-207, MCA., requires that the Board establish a Tax-Deferred Annuity program. When enacted, the TRS was about the only option available to members wishing to use a tax-deferred annuity to supplement their retirement income. In 1989 the Board recognized that these programs had become a thriving private sector industry in which we were in direct competition. Therefore, the Board, through a Request For Proposal contracted with the Variable Annuity Life Insurance Company to take over our annuity accounts. In this legislative session the board is asking the legislature to repeal 19-20-207, MCA.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Administration COMMITTEE

DATE 1-20-94

BILL NO. HB205 SPONSOR(S) Johnson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Tom Bilodeau	MEA	✓	
Pete Joseph	MFT		
Norm Inguin	JAM	/	
Jim Foster	MREA	✓	
Don Waldron	MREA	✓	
David Seon	TRS	✓	
John Malee	M.F.T.	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:vissbcom.man

CS-14

EXECUTIVE ACTION ON HB 205

Motion: REP. SCHWINDEN MOVED HB 205 DO PASS.

Discussion:

Ms. Heffelfinger stated this bill was at the request of the Teacher's Retirement Board as their general revision bill. She stated there were some handouts and reports to the committee about the Public Employees Retirement System. The committee recommendation was on that report. David Senn gave a section by section analysis of the bill and tells what each section does. The main points were all enumerated in the title of the bill.

REP. REHBEIN stated on Page 6 of the bill that the board be redefined to three members. He stated they would be reducing the authority of the six members to two members. If the quorum goes up, they'll reduce the six member board to two members controlling what the board decides to do.

Mr. Senn stated the reason the Teacher's Retirement Board had selected three was because one of the members of the board is the Superintendent of Public Instruction. By election to this office he is automatically appointed to the board. He stated that leaves five members to be appointed to the board by the Governor. He stated they had chosen three for that reason.

REP. REHBEIN asked if this was three board members plus or if it would be three members including.

Mr. Senn stated it would be three members including Keenan.

REP. TAYLOR stated she comes from eastern Montana where school teachers get their housing as part of their pay. She stated she understood the bill to say the value of their housing is not calculated as part of their retirement. She stated she didn't know if this would affect five people or thirty people, but the committee had heard a bill to bring 39 people under a system that were forgotten when the law had been passed. She stated she didn't want to forget these people who are receiving housing as part of their pay.

Mr. Senn stated under the Teacher's Retirement System housing is required to be reported to the Teacher's Retirement System if it is part of the teacher's pay. He stated there aren't many cases of this. Those who are currently part of the system would continue to have a contract right and would continue to have the housing supplied to them. He stated this bill would only affect those hired after this is turned into law if it were to be passed. Not many people are reporting housing.

He stated they aren't doing this for a variety of reasons. The main reason is if they need to contribute on a \$2000 house, the take-home pay would go down. He stated another problem with the

value of housing is who determines the value of the house and what a fair market value would be for the home. He stated the board looked at this and they didn't want to take the role of dictating the value of housing to school boards and reduce the take-home pay of the employees and increase the employer contribution for those districts. He stated what the board had decided to do is take the value of housing out.

He stated REP. TAYLOR was correct in her statement that housing value doesn't show up in the final average value. He stated this would make the average a little low. The Legislature wants to leave this out and the Teacher's Retirement Board didn't have serious objection to that. He asked for the committee to keep in mind they would be serious about collecting on the value of housing.

REP. TAYLOR stated for those people who want to include the housing as part of their retirement would no longer have that as a benefit of retirement if this bill were to pass. She stated she didn't like that any more than she would like to tell someone else they couldn't receive \$2,000 of their annual salary. She stated they deal with that issue in her area.

Mr. Senn stated the \$2,000 value in the example he had given was pretty close to actual figures in most cases. It is a benefit to that individual who doesn't want to move into an area for a little while and rent or buy a house. They make the house available to them. He stated this takes care of the problem of trying to find a home. It is a benefit in terms of enhancing final average salary if they are working in that district for three to five years. If that would be the case this would increase their benefits. The drawback to this is once they start recording the housing, they must do it from Day One and do it until they retire. This would cause a decrease of their income and take-home pay. He stated that was the reason the board wanted to change that and drop it from the system because it didn't seem like a significant benefit to members. He stated there hasn't been any objection to this.

REP. SIMPKINS asked if this would need to be recorded for state and federal income tax.

Mr. Senn stated the question was a difficult one to answer yes or no. He stated it was his understanding housing is recorded on an off campus site. If they can see the school the value of housing is not taxable by the federal government. He stated the housing may or may not be taxable income depending on where the house is located.

REP. SIMPKINS stated with this situation if they say they would include it as a retirement benefit it would also have to become a taxable benefit. The teacher may lose in the long run. He stated these are some of the considerations they took into account when they first looked at this bill. He said it was

difficult to determine who would be disadvantaged by this bill. He stated it was the conclusion of the School Boards Association and others looking at the bill that there could be more harm done than good. He stated they didn't know how much harm they could do by going a different way with the bill. He stated this was a very complicated issue.

REP. DENNY asked what the standard of the quorum would be for a board. He asked if it would be a majority of the members or half the members.

Ms. Heffelfinger stated it would be a majority of the members for a quorum.

REP. DENNY stated he was curious as to why the committee wanted to change the number from a quorum to half the members.

Ms. King stated with her board the quorum is three members of the six must be present. She gave some background to the board. She stated that at one time there had been five members on the board and the quorum was the majority. She stated when they changed the size of the board they didn't change the quorum because it was difficult to get people there. She stated they believed they would be at a disadvantage if the quorum would have been the majority when some of the people may not have been able to arrive at the meeting. She stated they hadn't found that to be a problem on their board because the members are very active.

REP. REHBEIN proposed to amend the bill to state the quorum would be three members plus the Superintendent of Public instruction for a total of four members.

REP. SIMPKINS stated the amendment couldn't say "plus the Superintendent of Public Instruction" because he or she is already a member of the board.

Motion: REP. REHBEIN MOVED TO AMEND LINE 21.

Discussion:

REP. DENNY stated he personally was satisfied with the answer he had received with why the quorum was at three members.

REP. SIMPKINS stated he was satisfied with three members for the quorum.

REP. GREEN stated he was uncomfortable with the quorum being three members. He stated he supported REP. REHBEIN's amendment.

REP. TROPILA asked Mr. Senn to clarify the amendment for the committee.

Mr. Senn stated the reason the quorum is at three because the Superintendent of Public Instruction has attended only three

- meetings in the past five years. He stated the Superintendent is on many boards and they conflict with some of the meetings for the Teacher's Retirement Board. He stated there is a representative for the Superintendent of Public Instruction at the meeting and they can only provide information at the meetings and don't hold a vote. He stated the Teacher's Retirement Board typically meets five times a year. He asked the committee to consider this amendment very carefully.

REP. TAYLOR asked if the Superintendent votes by proxy.

Mr. Senn stated the Superintendent as a board member has a judiciary responsibility and voting by proxy without being there to hear what is being discussed, in his opinion, would be out of order.

REP. SMITH asked why this was the quorum of three members put in the bill to begin with if it had never been put in there before.

REP. SIMPKINS stated it was to match the PERS system in case they were to have a problem with it in the future.

Mr. Senn stated the question had never come up in the past and they had never had any problems with having at least three members at the meetings until weather played a role.

Vote: Motion failed 6-12 with REP. BRAINARD, REP. GREEN, REP. MARTINEZ, REP. REHBEIN, REP. SMITH, AND REP. TAYLOR voting yes. REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. MASOLO, REP. SQUIRES, and REP. TAYLOR voted by proxy.

Vote: Motion carried 13-5 with REP. GREEN, REP. MARTINEZ, REP. REHBEIN, REP. SMITH, and REP. TAYLOR voting no. REP. GALVIN, REP. HAGENER, REP. HEAVY RUNNER, REP. KITZENBERG, REP. MASOLO, REP. SQUIRES, and REP. TAYLOR voted by proxy.

Exhibits 4 and 5 were submitted into the record.

HOUSE OF REPRESENTATIVES

State Administration

ROLL CALL

DATE January 24, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Simpkin, Chairman	✓		
Rep. Matt Denny, Vice Chairman, Majority	✓		
Rep. Dore Schwinden, Vice Chair, Minority	✓		
Rep. Matt Brainard	✓		
Rep. Pat Galvin	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener			✓
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Sam Kitzenberg	✓		
Rep. Bonnie Martinez	✓		
Rep. Gay Ann Masólo	✓		
Rep. Bill Rehbein	✓		
Rep. Susan Smith	✓		
Rep. Jay Stovall	✓		
Rep. Carolyn Squires			✓
Rep. Lila Taylor	✓		
Rep. Joe Tropila	✓		



HOUSE STANDING COMMITTEE REPORT

January 24, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 205 (first reading copy -- white) do pass.

Signed: *Dick Simpkins*
Dick Simpkins, Chair

A handwritten mark, possibly a stylized 'S' or a signature, is located in the bottom left corner of the page.

Committee Vote:
Yes 13, No 5.

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HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 1-24-95 BILL NO. HB NUMBER 205

MOTION: DO PASS MADE BY REP. DORE SCHWINDEN.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard	✓	
Rep. Pat Galvin By Proxy	✓	
Rep. Dick Green		✓
Rep. Toni Hagener By Proxy	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner By Proxy	✓	
Rep. Sam Kitzenberg By Proxy	✓	
Rep. Bonnie Martinez		✓
Rep. Gay Ann Masolo By Proxy	✓	
Rep. Bill Rehbein		✓
Rep. Susan Smith		✓
Rep. Jay Stovall	✓	
Rep. Carolyn Squires By Proxy	✓	
Rep. Lila Taylor By Proxy		✓
Rep. Joe Tropila	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 1-24-95 BILL NO. HB NUMBER 205

MOTION: TO AMEND MADE BY REP. BILL REHBEIN.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman		✓
Rep. Matt Denny, Vice Chairman, Majority		✓
Rep. Dore Schwinden, Vice Chairman, Minority		✓
Rep. Matt Brainard	✓	
Rep. Pat Galvin By Proxy		✓
Rep. Dick Green	✓	
Rep. Toni Hagener By Proxy		✓
Rep. Harriet Hayne		✓
Rep. George Heavy Runner By Proxy		✓
Rep. Sam Kitzenberg By Proxy		✓
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo By Proxy		✓
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall		✓
Rep. Carolyn Squires By Proxy		✓
Rep. Lila Taylor By Proxy	✓	
Rep. Joe Tropila		✓

1-24-95

no to amend
yes to HB 205
Rep. Morales

regardless of the amount of the equipment requirement. PERS assumes the companies will meet "reasonable expectations" of the industry and there will be no change in the number of companies covered. Ms. King added that not all volunteer fire companies currently report to PERS, even at the \$2,500 level.

Closing by Sponsor:

REP. SCHWINDEN said there are some technical amendments which will clean up some of the language in HB63. REP. SCHWINDEN said he believes agreement can be reached regarding the concerns expressed by the opponents about the equipment requirements.

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HEARING ON HB205

Opening Statement by Sponsor:

REP. JOHN JOHNSON, House District 2, Glendive, said the Committee on Public Employee Retirement Systems established in the 1993 Legislative Session is required to report to the legislature on its fiscal and policy implications of each retirement proposal that is reviewed and to make recommendations for legislative action. REP. JOHNSON said HB205 is the vehicle for those Committee recommendations which affect clarifying the Teachers' Retirement System and added there is no fiscal impact in HB205. REP. JOHNSON explained that the 1993 Legislative Session adopted provisions for dividing retirement benefits in cases of divorce, and that process is called the "family law order" or FLO. However, due to an oversight in the coordination instructions contained in the bill, the final language was not codified under TRS in title 19. HB205 will clarify that the TRS Board can approve an FLO. REP. JOHNSON said over the past 15 years, the definition of compensation that is included in the calculation of retirement benefits has been amended many times in a continuing effort to limit members' ability to inflate their final years salary, resulting in larger but under-funded retirement benefits. HB205 will clarify the average and final compensation and the current 10% cap on compensation used in calculation. HB205 will also address a change in definition of taxable income. REP. JOHNSON said there are other housekeeping proposals that are required to comply with and take advantage of federal laws and regulations.

Proponents' Testimony:

David Senn, Executive Director of the Teachers Retirement System, handed out written testimony (EXHIBIT 3). Mr. Senn expanded somewhat on various areas of his written testimony, but he essentially covered the issues as described in Exhibit 3.

Don Waldron, representing the Montana Rural Education Association, said his Association fully supports HB205. Mr. Waldron said HB205 was addressed in their bulletin which goes to all county superintendents, and there has been no feedback, so his Association assumes county superintendents are in agreement as well.

Opponents' Testimony: NoneQuestions From Committee Members and Responses:

SEN. WELDON asked David Senn for clarification that plans which existed under 19-20-207 have all been transferred to the company that won the RFP. Mr. Senn said that is correct. He said TRS was paying 8% on those accounts, and the winning company was able to pay 8%% guaranteed for two years.

SEN. BROOKE asked David Senn, regarding the Family Law Order, why TRS had not been included in Senator Bartlett's bill last session. Mr. Senn said he had drafted the original language for that bill, and he explained that last session, PERS had a large re-codification of their entire act. It was that re-codification that was to be coordinated with the Family Law Order bill, but due to a missed coordination instruction, when it came time to codify it, everything ended up under PERS Board instead of TRS Board. Mr. Senn said TRS is processing Family Law Orders currently, and said they were not even aware there was a problem until mid-December.

Closing by Sponsor:

REP. JOHNSON said HB205 simply clarifies a number of issues, and he pointed out the various effective dates in the different sections of HB205.

CHAIRMAN HARDING closed the Hearing on HB205.

EXECUTIVE ACTION ON HB298

Motion: SEN. BROOKE moved that HB298 BE CONCURRED IN.

Discussion: David Senn was asked to comment on the issue of earnings limitations for retirees age 70½ or more. Mr. Senn explained the difference between private plans and public plans. He said that most private plans are simply based on contributions, and once age 70½ is reached, you must begin drawing from that plan and paying ordinary income taxes. He said, however, that public plans are based on years of service and final average salary, and contributions do not have much effect on the calculation of the benefit. Mr. Senn said the 600 or 640 hours is a way to control people from retiring and going back to work full time. It doesn't have anything to do with the federal tax law, and it's a matter of state policy to control retirees returning to work. Mr. Senn added this is only a limit on positions covered under PERS and said there is a similar provision for teachers. Mr. Senn said the 70½ age issue really isn't related to this PERS proposal at all.

SEN. BROOKE asked Mr. Senn to clarify that the age 70½ issue has more to do with federal requirements to start drawing on a pension (for tax purposes), rather than having to do with hours worked. Mr. Senn said that is correct.

SEN. WELDON asked David Senn who would benefit and who would be harmed if the sentence on page 2, line 3 -- "this section does not apply to retired members age 70½" were stricken. Mr. Senn said it would not really affect anybody. SEN. WELDON said since it wouldn't make very much difference if that language was left in or stricken, it should be left in.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. BECK will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB205

Motion/Vote: SEN. BROOKE moved that HB205 BE CONCURRED IN.
The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. BROOKE will carry the bill on the Senate floor.

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE _____

Mon 02-06-95

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CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 205 (third reading copy -- blue), respectfully report that HB 205 be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

St

Amd. Coord.
Sec. of Senate

BROOKE
Senator Carrying Bill

311248SC.SRF

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD, TODAY: _____

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Clem Duaine	Silver Bow Vol Fire Council	HB 63	✓	
Don WA/Droz	MREA 4P 110	205 288	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY